

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

IN RE:	§	CHAPTER 7
	§	
AMERICAN UNDERWRITING SERVICES, LLC,	§	Case No. 18-58406-SMS
	§	
Debtor.	§	
<hr style="border: 0.5px solid black;"/>		
	§	
S. GREGORY HAYS, Chapter 7 Trustee for the Estate of American Underwriting Services, LLC,	§	Adv. Pro. No. 19-05202
	§	
Plaintiff,	§	
v.	§	
	§	
NEIL WILEY, JAMES RUSSELL WILEY, THE WILEY GROUP, INC., TW3 TRANSPORTATION, LLC, TW3 LOGISTICS LLC, and TRANSPORT SOUTH INSURANCE AGENCY, LLC,	§	
	§	
Defendants.	§	
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**REQUEST BY PLAINTIFF FOR ENTRY OF DEFAULT AGAINST THE WILEY  
GROUP, INC., TW3 TRANSPORTATION, LLC, TW3 LOGISTICS LLC, AND  
TRANSPORT SOUTH INSURANCE AGENCY, LLC**

COMES NOW, Plaintiff S. Gregory Hays, Chapter 7 Trustee (the “**Trustee**” or “**Plaintiff**”) for the bankruptcy estate (the “**Estate**”) of American Underwriting Services, LLC, Debtor (the “**Debtor**”) in the above captioned case (the “**Case**”) and Plaintiff in the above captioned adversary proceeding (the “**Adversary Proceeding**”), by and through its undersigned counsel of record, and pursuant to Rule 55 of the Federal Rules of Civil Procedure and Rule 7055 of the Federal Rules of Bankruptcy Procedure, files this *Request by Plaintiff for Entry of Default Against The Wiley Group, Inc., TW3 Transportation, LLC, TW3 Logistics LLC, and Transport South Insurance Agency, LLC* (the “**Request**”) incident to which the Plaintiff requests the entry of default in the Adversary Proceeding against The Wiley Group, Inc. (the “**Wiley**

**Group**”), TW3 Transportation, LLC (“**TW3**”), TW3 Logistics LLC (“**TW3 Logistics**”), and Transport South Insurance Agency, LLC (“**Transport South**”) (collectively, the “**Defendants in Default**”). The Declaration of Henry F. Sewell, Jr. (the “**Sewell Declaration**”) attached as **Exhibit “A”** hereto and incorporated herein by reference establishes that the Defendants in Default are in Default. In support of its Request, the Plaintiff shows the Court as follows:

1. On May 1, 2019, Plaintiff commenced the Adversary Proceeding by the filing of its *Complaint* (the “**Complaint**”) against Neil Wiley (“**Neil Wiley**”), James Russell Wiley (“**Russ Wiley**”), the Wiley Group, TW3, TW3 Logistics, and Transport South (collectively, the “**Defendants**”). *See* Docket No. 1; *see also* Sewell Declaration, ¶ 2. In the Complaint against former insiders of the Debtor and related persons and entities, the Plaintiff sought to: a) avoid and recover for the benefit of the Estate certain fraudulent and preferential transfers of property or interests of the Debtor to or for the benefit of one or more of the Defendants; b) recover damages for conversion, breach of fiduciary duty, and unjust enrichment; and c) obtain an accounting from each of the Defendants and for other relief as set forth herein. *See* Docket No. 1.

2. The Clerk of Court issued a Summons in this Adversary Proceeding on each of the Defendants on May 2, 2019 (the “**Summons**”) that required an answer to the Complaint by June 3, 2019. *See* Docket No. 2; *see also* Sewell Declaration, ¶ 3.

3. The Defendants in Default—the Wiley Group, TW3, TW3 Logistics and Transport South—and Russ Wiley were each timely served with the Summons and a copy of the Complaint initiating the Adversary Proceeding in compliance with Bankruptcy Rule 7004, by mail service of the Summons and Complaint on May 3, 2019, as shown on the Certificate of Service filed by the Plaintiff with this Court. *See* Docket No. 3; *see also* Sewell Declaration, ¶

4. The Summons and Complaint were sent via first class mail and were not returned to the

sender. Neil Wiley entered an Acknowledgement of Service in which Neil Wiley acknowledged service of the Summons and Complaint in the Adversary Proceeding. *See* Docket No. 4; *see also* Sewell Declaration, ¶ 4.

4. Service of the Summons and Complaint has been made and such service is sufficient, adequate, and proper pursuant to Rule 7004 of the Federal Rules of Bankruptcy Procedure, Rules 4 and 5 of the Federal Rules of Civil Procedure, and any other requirements set forth in the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, the United States Bankruptcy Code, and/or any applicable non-bankruptcy law.

5. Pursuant to Bankruptcy Rule 7012, an answer or other response was due by each of the Defendants on or before June 3, 2019. After Russ Wiley filed a motion on May 31, 2019, for an extension of time [Docket No. 7], the Court entered an order on August 14, 2019, granting Russ Wiley an extension of time to and including August 30, 2019 to answer or file other pleadings responsive to the Complaint [Docket No. 17]. *See also* Sewell Declaration, ¶ 6.

6. As of the date of this Request, the Wiley Group, TW3, TW3 Logistics and Transport South have failed to file an answer or other response to the Complaint or appear or otherwise defend the Adversary Proceeding. *See* Docket generally; *see also* Sewell Declaration, ¶ 6. The Plaintiff acknowledges that Neil Wiley filed an Answer to Complaint on May 31, 2019, and, as such, the Plaintiff is not seeking the entry of default with regard to Neil Wiley. *See* Docket Nos. 5 & 8; *see also* Sewell Declaration, ¶ 6. The Plaintiff further acknowledges that Russ Wiley filed on August 30, 2019, an answer to the Complaint [Docket No. 20] and, as such, the Plaintiff is also not seeking the entry of default with regard to Russ Wiley. *See* Sewell Declaration, ¶ 6.

7. Pursuant to Bankruptcy Rule 7055(a), entry of default against the Defendants in

Default—the Wiley Group, TW3, TW3 Logistics and Transport South—shall be made by the Clerk of Court when, as in this case, the Defendants in Default have failed to answer or otherwise defend.

8. A proposed Entry of Default is attached as **Exhibit “B”** hereto.

**WHEREFORE** Plaintiff requests that the Court grant this Motion and make an entry of default against the Defendants in Default—the Wiley Group, TW3, TW3 Logistics and Transport South—and grant such other and further relief as is just and proper.

Respectfully submitted this 27th day of September, 2019.

Respectfully submitted,

LAW OFFICES OF HENRY F. SEWELL JR., LLC

/s/ Henry F. Sewell, Jr.

Henry F. Sewell, Jr.

Georgia Bar No. 636265

Buckhead Centre

2964 Peachtree Road NW, Suite 555

Atlanta, GA 30305

(404) 926-0053

hsewell@sewellfirm.com

*Counsel for Plaintiff S. Gregory Hays, Chapter 7 Trustee  
for the bankruptcy estate of American Underwriting  
Services, LLC, Debtor*

**EXHIBIT "A"**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

IN RE:	§	CHAPTER 7
	§	
AMERICAN UNDERWRITING	§	Case No. 18-58406-SMS
SERVICES, LLC,	§	
	§	
Debtor.	§	
	§	
S. GREGORY HAYS, Chapter 7 Trustee for the	§	
Estate of American Underwriting Services, LLC,	§	Adv. Pro. No. 19-05202
	§	
Plaintiff,	§	
v.	§	
	§	
NEIL WILEY, JAMES RUSSELL WILEY,	§	
THE WILEY GROUP, INC., TW3	§	
TRANSPORTATION, LLC, TW3	§	
LOGISTICS LLC, and TRANSPORT	§	
SOUTH INSURANCE AGENCY, LLC,	§	
	§	
Defendants.	§	

**DECLARATION OF HENRY F. SEWELL, JR.**

I, HENRY F. SEWELL, JR., declare under penalty of perjury as follows:

1. I am an attorney with the Law Offices of Henry F. Sewell, Jr., LLC (the "**Firm**"), which serves as counsel to Plaintiff S. Gregory Hays, Chapter 7 Trustee (the "**Trustee**" or "**Plaintiff**") for the bankruptcy estate (the "**Estate**") of American Underwriting Services, LLC, Debtor (the "**Debtor**") in the above captioned case (the "**Case**") and Plaintiff in the above captioned adversary proceeding (the "**Adversary Proceeding**"), in both the Case and in this Adversary Proceeding.

2. On May 1, 2019, Plaintiff commenced the Adversary Proceeding by the filing of its *Complaint* (the "**Complaint**") against Neil Wiley ("**Neil Wiley**"), James Russell Wiley

(“**Russ Wiley**”), The Wiley Group, Inc. (the “**Wiley Group**”), TW3 Transportation, LLC (“**TW3**”), TW3 Logistics LLC (“**TW3 Logistics**”) and Transport South Insurance Agency, LLC (“**Transport South**”) (collectively, the “**Defendants**”).

3. The Clerk of Court issued a Summons on each of the Defendants on May 2, 2019 (the “**Summons**”) that required an answer to the Complaint by June 3, 2019. *See* Docket No. 2.

4. On May 3, 2019, Russ Wiley, the Wiley Group, TW3, TW3 Logistics and Transport South were each served with the Summons issued by the Clerk of this Court and a copy of the Complaint initiating the Adversary Proceeding, as described in the Certificate of Service that I filed in the Adversary Proceeding. *See* Docket No. 3. The Summons and Complaint were sent via first class mail and were not returned to the sender. Neil Wiley entered an Acknowledgement of Service in which Neil Wiley acknowledged services of the Summons and Complaint in the Adversary Proceeding. *See* Docket No. 4.

5. Service of the Summons and Complaint has been made and such service is sufficient, adequate, and proper pursuant to Rule 7004 of the Federal Rules of Bankruptcy Procedure, Rules 4 and 5 of the Federal Rules of Civil Procedure, and any other requirements set forth in the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, the United States Bankruptcy Code, and/or any applicable non-bankruptcy law.

6. I (or another attorney in my firm) have reviewed the electronic docket maintained by the Clerk of Court and found no answer, response, defense or appearance by the Wiley Group, TW3, TW3 Logistics and Transport South or by any person on behalf of the Wiley Group, TW3, TW3 Logistics and Transport South in the Adversary Proceeding as of September 26, 2019. I have not been served with any such answer, response, defense or appearance by the Wiley Group, TW3, TW3 Logistics and Transport South or been contacted by any person on

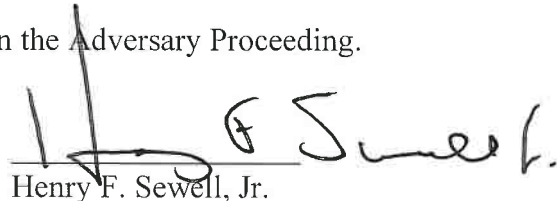
behalf of the Wiley Group, TW3, TW3 Logistics and Transport South in the above-captioned matter. Neil Wiley filed an Answer to Complaint on May 31, 2019 and, as such, the Plaintiff is not seeking the entry of default with regard to Neil Wiley. *See* Docket Nos. 5 & 8. After Russ Wiley filed a motion on May 31, 2019, for an extension of time [Docket No. 7], the Court entered an order on August 14, 2019, granting Russ Wiley an extension of time to and including August 30, 2019 to answer or file other pleadings responsive to the Complaint [Docket No. 17]. Since Russ Wiley filed on August 30, 2019, an answer to the Complaint [Docket No. 20], the Plaintiff is also not seeking the entry of default with regard to Russ Wiley.

7. The Wiley Group, TW3, TW3 Logistics and Transport South failed to file an answer to the Complaint on or before June 3, 2019 and failed to file an answer to the Complaint on or before even the extended date for Russ Wiley of August 30, 2019.

8. To the best of my knowledge, the Wiley Group, TW3, TW3 Logistics and Transport South are neither incompetent nor an infant and are not engaged in active military service.

9. This declaration is made pursuant to Rule 55 of the Federal Rules of Civil Procedure, as incorporated by Rule 7055 of the Federal Rules of Bankruptcy Procedure, for the purpose of supporting the request by the Plaintiff for the entry of a default against the Wiley Group, TW3, TW3 Logistics and Transport South in the Adversary Proceeding.

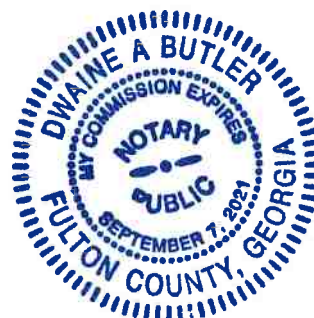
This 26th day of September, 2019.

  
Henry F. Sewell, Jr.

Sworn to and subscribed before me  
this the 26th day of September, 2019.

  
Notary Public

My commission expires: 9 / 7 / 21



**EXHIBIT "B"**

**IN THE UNITED STATES BANKRUPTCY COURT  
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AMERICAN UNDERWRITING	§	Case No. 18-58406-SMS
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<u>Debtor.</u>	§	
	§	
S. GREGORY HAYS, Chapter 7 Trustee for the	§	
Estate of American Underwriting Services, LLC,	§	Adv. Pro. No. 19-05202
	§	
Plaintiff,	§	
v.	§	
	§	
NEIL WILEY, JAMES RUSSELL WILEY,	§	
THE WILEY GROUP, INC., TW3	§	
TRANSPORTATION, LLC, TW3	§	
LOGISTICS LLC, and TRANSPORT	§	
SOUTH INSURANCE AGENCY, LLC,	§	
	§	
<u>Defendants.</u>	§	

It appears from the record that the following defendants failed to plead or otherwise defend in this case as required by law:



The Wiley Group, Inc.  
5605 Glenridge Drive, Suite 900  
Atlanta, Georgia 30342

TW3 Transportation, LLC  
3390 Peachtree Road, Suite 520  
Atlanta, Georgia 30326

TW3 Logistics, LLC  
3390 Peachtree Road, Suite 520  
Atlanta, Georgia 30326

Transport South Insurance Agency, LLC  
4390 Earney Road, Suite 230  
Woodstock, Georgia 30188

Therefore, default is entered against the defendants as authorized by Bankruptcy Rule 7055.

This \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Clerk of Court,  
United States Bankruptcy Court

BY: \_\_\_\_\_  
Deputy Clerk

**IN THE UNITED STATES BANKRUPTCY COURT  
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ATLANTA DIVISION**

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Plaintiff,	§	
v.	§	
	§	
NEIL WILEY, JAMES RUSSELL WILEY, THE WILEY GROUP, INC., TW3 TRANSPORTATION, LLC, TW3 LOGISTICS LLC, and TRANSPORT SOUTH INSURANCE AGENCY, LLC,	§	
	§	
Defendants.	§	
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**CERTIFICATE OF SERVICE**

I hereby certify that on this day I served a true and correct copy of the ***REQUEST BY PLAINTIFF FOR ENTRY OF DEFAULT AGAINST THE WILEY GROUP, INC., TW3 TRANSPORTATION, LLC, TW3 LOGISTICS LLC, AND TRANSPORT SOUTH INSURANCE AGENCY, LLC*** by causing the same to be deposited in the United States Mail with adequate postage affixed thereon and addressed to the following person(s):

United States Trustee  
Suite 362 – Russell Federal Bldg  
75 Ted Turner Drive  
Atlanta, GA 30303

The Wiley Group, Inc.  
c/o Robert M. Finlayson II, Registered Agent  
5605 Glenridge Drive, Suite 900  
Atlanta, Georgia 30342

TW3 Transportation, LLC  
c/o Jeremy R. Handschuh, Registered Agent  
3390 Peachtree Road, Suite 520  
Atlanta, Georgia 30326

TW3 Logistics, LLC  
c/o Jeremy R. Handschuh, Registered Agent  
3390 Peachtree Road, Suite 520  
Atlanta, Georgia 30326

Transport South Insurance Agency, LLC  
c/o Eric Johnson, Registered Agent  
4390 Earney Road, Suite 230  
Woodstock, Georgia 30188

Eric J. Johnson, Esq.  
Counsel for Neil Wiley  
4390 Earney Road, Suite 230  
Woodstock, GA 30188

This 27th day of September, 2019.

Respectfully submitted,

LAW OFFICES OF HENRY F. SEWELL JR., LLC

/s/ Henry F. Sewell, Jr.  
Henry F. Sewell, Jr.  
Georgia Bar No. 636265  
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COUNSEL FOR THE TRUSTEE